

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re:

Chapter 11

NEW YORK HELICOPTER CHARTER INC.,

Case No.

Debtor.

-----X

DECLARATION PURSUANT TO LOCAL BANKRUPTCY RULES 1007-2

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Michael Roth, declares under the penalty of perjury, pursuant to 28 U.S.C. 1746 as follows:

1. I am the founder, CEO and sole owner of NY Helicopter Charter Inc. ("NYH" or the "Debtor"). Unless otherwise stated, I am personally familiar with the facts and circumstances as recited herein. This declaration is being filed along with the Debtor's Chapter 11 bankruptcy petition dated October 10, 2019 (the "Petition Date") for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

NATURE OF THE DEBTOR'S BUSINESS

2. NYH is a charter and sightseeing helicopter company that has been continuously operating in New York City for over 20 years and is certified by the Federal Aviation Administration ("FAA"). In addition to NYH's Part 135 license, NYH is one of only three holders in New York of a Part 136 license. Whereas non-Part 136 operators can only fly their aircraft at least three miles away in all directions from governmental land, including the Statue of Liberty and other major sightseeing attractions, Part 136 license holders are not subject to this limitation. The Part 136 license is transferrable and represents a valuable asset of this estate.

3. NYH operates a fleet of three helicopters from a New York heliport located at 6 East River Piers in downtown Manhattan (the “NY Heliport”) and a New Jersey heliport (the “NJ Heliport”) located at 165 Western Rd, Kearny, NJ 07032. The value of the fleet of helicopters, alone, is between 2.9 and 3.5 million dollars, considerably more than all scheduled debts.

4. NYH’s operates out of New York pursuant to a Downtown Heliport Permit issued to NYH by New York FirstFlight Heliports LLC d/b/a Saker Aviation Services (“Saker”) that was executed in or about December 2009. NYH is currently using the NY Heliport on a month-to-month basis.

5. In addition to its New York operations, NYH maintains a base of operations in New Jersey. On September 15, 2019, NYH and HELO Holdings, Inc. entered into a lease agreement described as a FBO Storage and Office Space License (the “NJ License”). Pursuant to the NJ License, HELO provided NYH with hangar space to store aircraft, tools, spare parts and equipment as well as space in the hangar and in a modular building for use by NYH as offices. In addition, pursuant to the NJ Lease, HELO agreed to provide NYH with fueling and towing services. The Debtor intends to assume the NJ License.

6. As discussed herein, NYH anticipates returning to profitability in large part through the expansion of its operations in New Jersey.

7. In addition, NYH is exploring potential opportunities to further expand its geographical reach through its Miami affiliate as well as certain strategic opportunities with respect to its New York operations.

8. Other substantial assets of NYH include unliquidated claims by NYH against Peter Borneman b/b/a Aircraft Maintenance Specialists, Aircraft Maintenance Specialists, Inc. and Keystone Services, LLC in actions now pending in the Supreme Court of the State of New York,

New York County. The total damages NYH is seeking in these actions is \$2,000,000.00. NYH also intervened in an action pending in Louisiana that arose out an accident involving a helicopter piloted by NYH in Kearney, New Jersey, to recover various damages, including (1) loss of profits due to the inability to find a replacement helicopter; (2) travel expenses for three day travel to Bell Helicopter's corporate HQ in Fort Worth, TX for three days; and (3) increased insurance premiums as a result of the claim on the Policy.

EVENTS LEADING TO THE BANKRUPTCY FILINGS

A. Changes in Policies of the City of New York Cut NYH's Business in Half

9. NYH began experiencing financial issues in or about January 2017 when the City of New York issued policy changes aimed at reducing air traffic over the city. Specifically, NYH was directed to reduce its takeoffs and landings by fifty percent (50%). At the same time, the landing fees charged to NYH by Saker were increased by 40%, thereby further reducing NYH's income.

10. The impact of these changes to NYH's operating income was substantial. Whereas NYH was earning approximately \$4.6 million to \$5.8 million in yearly revenues from the 1990s up to and including 2017, NYH's annual income for 2018 dropped to approximately \$3.8 million. Due to the sharp decline in operating income, NYH reduced its staff from thirty (30) employees to thirteen (13).

B. Loss of one-Third of the Debtor's Fleet

11. In or about November 2018, NYH and Dallas Airmotive, Inc. ("DAI") discussed, among other things, repairs to NYH's C30P Engine, Serial No. CAE896071, used in its Bell helicopter with FAA registration No. N406MR, and Serial No. 53268.

12. Based upon these discussions and, specifically, the estimated repair costs quoted by DAI, on January 18, 2019 NYH entered into an Engine Lease Agreement with DAI to lease a replacement engine (the “Leased Engine”) from DAI while NYH’s engine was being repaired.

13. Notwithstanding DAI’s initial repair quote, DAI significantly raised the price of such repairs. DAI has refused to release NYH’s C30P engine unless and until NYH pays DAI in full. Accordingly, in order for NYH to continue to operate its full fleet, it was totally reliant upon the Leased Engine.

14. The Leased Engine, however, was not functioning correctly due to a faulty fuel control unit, to the point that NYH’s pilots were afraid to start the helicopter. NYH had informed DAI of this issue, but DAI never corrected it. Because it would have been unsafe to fly the helicopter otherwise, NYH purchased a replacement part for over \$10,000 and had it installed by NYH’s usual maintenance company, Analar Corporation.

15. The dispute between NYH and DAI is currently the subject of an action pending in the Supreme Court of the State of New York, County of New York, *Dallas Airmotive, Inc. v. NY Helicopter Charter Inc.*, Index No. 654122/2019. In connection with this action, NYH returned the Leased Engine to DAI.

16. Due to DAI’s refusal to return the C30P engine to NYH, NYH is currently operating with only two (2) of its aircraft, thereby reducing NYH’s ability to service customers by one-third. NYH will demand the turnover of the engine as property of the estate and take all necessary steps to assure that it is turned over in the absence of voluntary compliance by DAI. The return of the engine will exponentially expand NYH’s ability to service its customers.

C. First Source Bank Aircraft Financing

17. On or about March 5, 2015, NYH entered into a Loan and Security Agreement and related Promissory Note with First Source Bank in connection with a loan in the approximate amount of \$1,155,000.00, now reduced to the approximate amount of +/- \$550,000.00. To secure the loan, NYH granted First Source Bank a first priority secured claim in each of its helicopters and related rights, which security interest was properly perfected.

18. Due to cash restraints, NYH defaulted on this loan, and on or about August 22, 2019 First Source Bank sent NYH a Demand and Acceleration Notice declaring NYH to be in default and accelerating the obligations under the loan.

D. Unpaid Repair Costs

19. Due to cash constraints, in addition to the claims of DAI, NYH remains indebted to the following parties for repairs to NYH's aircraft and related equipment:

- Analar Corporation - \$106,000.00;
- Sterling Helicopter - \$56,000.00.

E. Merchant Credit Advance and Settlement of Claims Related Thereto

20. Due to cash restraints, NYH turned to AKF Inc. d/b/a Fundkite for a merchant cash advance. In this regard, on or about November 1, 2018, NYH and Fundkite entered into a Revenue Purchase Agreement ("RPA") which provided, among other things, for Fundkite to purchase a certain percentage of NYH's receivables. The nature and validity of the underlying loan is subject to dispute and investigation as NYH essentially does not have, nor generate, receivables- it is generally paid by its customers on or before the flights take place.

21. The terms of the RPA proved too financially onerous for NYH and NYH ultimately defaulted on the RPA. On or about April 18, 2019, Fundkite filed a confession of judgment against

NYH in the New York Supreme Court, County of Kings, in the amount of \$590,234.48 under circumstances that are subject to challenge.

22. Thereafter, the parties entered into settlement discussion and, on or about June 7, 2019, NYH, Roth and Fundkite entered into a Confidential Settlement Agreement. Pursuant to the settlement agreement, NYH agreed to pay Fundkite \$610,879.11 on or before November 5, 2019, in accordance with the terms of the settlement agreement. To secure payment of the settlement amount, Fundkite was granted a second priority security interest in NYH's Bell Helicopter, Model 206B, Serial Number 2397, N408MR. Fundkite, however, failed to properly perfect its security interest in the helicopter.

PURPOSE OF CHAPTER 11 FILING

23. The purpose of the filing is to return NYH to profitability. To effectuate this goal, NYH is seeking the turnover of its engine from DAI so that NYH can once again operate with a full fleet of helicopters. At the same time, NYH will be transitioning its main base of operations from New York to New Jersey and is actively evaluating cost cutting measures in connection with that transition. Unlike the policies currently in effect in New York City limiting the number of flights NYH may operate daily, New Jersey has no such restriction. Moreover, the landing fees applicable in New Jersey are considerably lower than those in New York. NYH anticipates that these changes will inure to the benefit of creditors of this estate in the form of substantial Chapter 11 payments on their claims, if not payment in full.

24. NYH plans on maintaining its New York landing license throughout this Chapter 11 process, and submits that this license is a valuable asset that could, if needed, be assigned to a third party for substantial value.

25. Moreover, the automatic stay will provide NYH the breathing room from creditor collection efforts, including ongoing litigation, needed to focus on its restructuring efforts.

LOCAL BANKRUPTCY RULE 1007-2

26. Pursuant to Local Bankruptcy Rule 1007-2(a)(2), this case was not commenced as a Chapter 7, 12 or 13 case.

27. Pursuant to Local Bankruptcy Rule 1007-2(a)(3), no committee was organized prior to the Petition Date.

28. Pursuant to Local Bankruptcy Rule 1007-2(a)(4), a list containing the names of the Debtors' twenty largest unsecured creditors has been filed with the Debtor's petition.

29. Pursuant to Local Bankruptcy Rule 1007-2(a)(5), a list containing the names of the Debtors' five largest secured creditors is annexed hereto as Exhibit A.

30. Pursuant to Local Bankruptcy Rule 1007-2(a)(6), a summary of the Debtor's assets and liabilities is annexed hereto as Exhibit B.

31. Pursuant to Local Bankruptcy Rule 1007-2(a)(7), there are no securities of the Debtor that are publicly held.

32. Pursuant to Local Bankruptcy Rule 1007-2(a)(8), NYH's C30P Engine, Serial No. CAE896071, used in its Bell helicopter with FAA registration No. N406MR, and Serial No. 53268, is in the possession of DAI. No other property of NYH is in the possession of a custodian, receiver, secured party, assignee or other person or entity described therein.

33. Pursuant to Local Bankruptcy Rule 1007-2(a)(9), the Debtor operates its business out of the NY Heliport and NJ Heliport, pursuant to agreements described herein.

34. Pursuant to Local Bankruptcy Rule 1007-2(a)(10), all corporate assets and books and records are located with the Debtor. The Debtor does not hold any assets outside of the United States.

35. Pursuant to Local Bankruptcy Rule 1007-2(a)(11), all pending and threatened actions and proceedings against the Debtor are listed in its Statement of Financial Affairs.

36. Pursuant to Local Bankruptcy Rule 1007-2(a)(12), the Debtor is managed under my management.

37. Pursuant to Local Bankruptcy Rules 1007-2(b)(1)-(3), the Debtor anticipates that for the 30 days following the Petition Date payroll expenses will be approximately \$52,000. The Debtor does not anticipate making any payments to officers, directors or members in this 30-day period.

Dated: October 10, 2019



Michael Roth
CEO

EXHIBIT A

LIST OF CREDITORS WHO HAVE THE FIVE LARGEST SECURED CLAIMS

Creditor	Contact Information	Nature of Claim	Amount of Claim	Description of Collateral	Value of Collateral
1 st Source Bank	PO Box 783 South Bend, IN 46624 Attn: Jeff Lindstadt (610) 269-1683	Aircraft Financing	\$551,000.00	Debtor's 3 helicopters	\$3,050,00.00

EXHIBIT B

BALANCE SHEET

		Oct 10, 19
ASSETS		
Current Assets		
Checking/Savings		
	Chase 832	50,006.18
	N.Y.H.O Chase 368	(1,927.82)
	NYHC- Chase-9681	5,470.03
	Total Checking/Savings	53,548.39
	Total Current Assets	53,548.39
Fixed Assets		
Helicopter		
	Helicopter N405MR	2,070,571.51
	Helicopter N406MR	1,931,800.00
	Helicopter N408MR	390,000.00
	Original Cost - Depreciation	(4,375,150.00)
	Total Helicopter	17,221.51
	Total Fixed Assets	17,221.51
Other Assets		
	Helicopter Lease Deposit	11,824.00
	Note Payable -Miami Helicopter	341,364.92
	Total Other Assets	353,188.92
	TOTAL ASSETS	423,958.82
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable		
	Accounts Payable	729,702.13
	Total Accounts Payable	729,702.13
Other Current Liabilities		
Garnishments		
	Garnishment 1	1,152.00
	Garnishment 1 I	85.00
	Garnishment 2 I	139.86
	Garnishment JC	2,208.00
	GarnishmentAN	1,728.00
	GarnishmentDK	4,128.00
	Total Garnishments	9,440.86

	Note Payable - Michael Roth	1,115,948.67
	Notes Payable-Josephine Sausa	26,000.00
	Payroll Taxes Payable	
	DBL	33.00
	FUI	19.50
	NY - Paid Family	71.26
	SUI	91.04
	Total Payroll Taxes Payable	214.80
	Total Other Current Liabilities	1,151,604.33
	Total Current Liabilities	1,881,306.46
	Long Term Liabilities	
	Secured Loans	
	1st Source Bank Mortgage N405	290,143.70
	1st Source Bank Mortgage N406	223,591.21
	Total Secured Loans	513,734.91
	Unsecured Loans	
	FUNDKITE	386,732.42
	ONEFUNDER	59,984.12
	Total Unsecured Loans	446,716.54
	Total Long Term Liabilities	960,451.45
	Total Liabilities	2,841,757.91
	Equity	
	Retained Earnings	(2,431,839.28)
	Net Income	14,040.19
	Total Equity	(2,417,799.09)
	TOTAL LIABILITIES & EQUITY	423,958.82

PROFIT AND LOSS STATEMENT

Jan 1 - Oct 10, 19

Ordinary Income/Expense

Income

ChargeBack	(1,404.00)
Charter	
Waiting Time	604.00
Charter - Other	94,762.61
Total Charter	95,366.61
Helicopter Tours	2,055,360.23
Refund	(10,208.00)
Total Income	2,139,114.84

Cost of Goods Sold

Aircraft Parts	
Repairs	166,612.17
Supplies	5,565.32
Aircraft Parts - Other	7,208.30
Total Aircraft Parts	179,385.79
Fuel Taxes	445.26
Helicopter Fuel	
Fuel Surcharge	25.75
Helicopter Fuel - Other	222,268.15
Total Helicopter Fuel	222,293.90
Helicopter Leasing	2,500.00
Helicopter Parts	21,946.95
Landing Fee	
Late Pos	470.00
Parking	872.00
Pax Fee	21,970.00
Landing Fee - Other	484,232.47
Total Landing Fee	507,544.47

Total COGS

934,116.37

Gross Profit

1,204,998.47

Expense

Accounting	8,160.00
Advertising	12,955.52
Amortization Expense	245.00
Automobile Expense	

Fuel	
Automobile	320.22
Fuel - Other	500.00
Total Fuel	820.22
Automobile Expense - Other	25,705.62
Total Automobile Expense	26,525.84
Bank Charges	
late fee	0.00
Bank Charges - Other	18,820.48
Total Bank Charges	18,820.48
Computer	8,976.54
Contributions - 401K	0.00
Equipment Lease	1,162.37
Equipment Rental	5,510.00
Insurance	
Auto	1,969.98
Computer Equipment	5,477.41
Disability Insurance	1,064.42
Health	22,078.38
Helicopter	68,038.80
Workmen's Comp	10,314.00
Insurance - Other	70,664.41
Total Insurance	179,607.40
Interest	272,330.50
Legal Fees	97,640.08
Meals & Entertainment	89.22
Merchant Charges	48,579.89
Office Supplies	4,647.42
Outside Services	3,701.28
Payroll Processing Fees	2,765.21
Payroll Taxes	33,859.54
Pension Fee	128.70
Postage	30.43
Postage and Delivery	1,654.63
Professional Development	1,000.00
Professional Fees	
Consulting Fee	2,500.00

	Professional Fees - Other	3,365.61
	Total Professional Fees	5,865.61
	Reimbursed Expenses	3,479.26
	Rent	
	Hangar	24,400.00
	Pax Fee	13,770.00
	Port Authority	
	Landing Fees	150.00
	Total Port Authority	150.00
	Rent - Other	4,500.00
	Total Rent	42,820.00
	Salary	
	CEO	3,000.00
	Office Professional Staff	127,761.10
	Overtime	68,989.20
	Pilot Salary	81,884.20
	Salary - Other	90,179.92
	Total Salary	371,814.42
	Taxes	476.05
	Telephone	23,303.63
	Travel	
	Airline Tickets	5,057.63
	Tolls	610.00
	Travel - Other	655.39
	Total Travel	6,323.02
	Utilities	5,250.45
	Total Expense	1,187,722.49
Net Ordinary Income		17,275.98
Other Income/Expense		
Other Income		
Interest Income		16.45
Total Other Income		16.45
Other Expense		
Ask my Accountant		22.45
Other Expenses		3,229.79
Transfer form Saving		0.00
Total Other Expense		3,252.24

Net Other Income	(3,235.79)
Net Income	14,040.19

STATEMENT OF CASH FLOW

New York Helicopter Group Projected Cash Flow

	3 MONTHS ENDED DECEMBER. 31, 2019
Black is result	
Opening cash	0
REVENUES:	
NY	1,169,050
NJ	303,750
Total Sales	1,472,800
COGS	(736,400)
GROSS PROFIT	736,400
EXPENSES:	
Salaries other	233,333
Auto Expense	2,500
Auto Insurance	667
Computer	3,333
Insurance-Helicopter	83,333
Insurance -Other	16,667
Printing	5,000
Payroll processing	3,333
Travel	6,667
Meals / Entertainment	1,667
Bank Service Charges	3,333
Pilot trainig	3,333
Office	4,333
Postage & Express Expenses	3,667
Supplies Expenses	1,667
Telephone	11,333
Utilities	2,667
Rent NY	3,333

NJ storage	18,000
Professional Fees	33,333
TOTAL EXPENSES	441,500
MARKETING/ADVERTISING EXPENSES:	
NY	
NJ	
TOTAL MARKETING/ADVERTISING	0
OTHER EXPENSES (INCOME):	
Operational Interest Expense historical	
New Interest Expense	
Interest on new Bank Term Loan	
Other	
Other	
Other	
TOTAL OTHER EXPENSE (INCOME)	0
NET INCOME (LOSS) BEFORE PROVISION FOR TAXES	294,900
Debt Payments (TBD)	
ending cash	294,900
Debt Payments (TBD)	
ending cash	83,392

3 MONTHS ENDED MARCH 31, 2020	3 MONTHS ENDED JUNE 30, 2020	3 MONTHS ENDED SEPT. 30, 2020	3 MONTHS ENDED DEC. 31, 2020	YEAR ENDED DEC. 31, 2020
294,900	699,225	1,776,500	2,853,775	294,900
855,900	1,711,800	1,711,800	1,711,800	5,991,300
735,000	1,225,000	1,225,000	1,225,000	4,410,000
1,590,900	2,936,800	2,936,800	2,936,800	10,401,300
(795,450)	(1,468,400)	(1,468,400)	(1,468,400)	(5,200,650)
795,450	1,468,400	1,468,400	1,468,400	5,200,650
175,000	175,000	175,000	175,000	700,000
1,875	1,875	1,875	1,875	7,500
500	500	500	500	2,000
2,500	2,500	2,500	2,500	10,000
62,500	62,500	62,500	62,500	250,000
12,500	12,500	12,500	12,500	50,000
3,750	3,750	3,750	3,750	15,000
2,500	2,500	2,500	2,500	10,000
5,000	5,000	5,000	5,000	20,000
1,250	1,250	1,250	1,250	5,000
2,500	2,500	2,500	2,500	10,000
2,500	2,500	2,500	2,500	10,000
3,250	3,250	3,250	3,250	13,000
2,750	2,750	2,750	2,750	11,000
1,250	1,250	1,250	1,250	5,000
8,500	8,500	8,500	8,500	34,000
2,000	2,000	2,000	2,000	8,000
2,500	2,500	2,500	2,500	10,000

13,500	13,500	13,500	13,500	54,000
25,000	25,000	25,000	25,000	100,000
0	0	0	0	0
331,125	331,125	331,125	331,125	1,324,500
30,000	30,000	30,000	30,000	120,000
30,000	30,000	30,000	30,000	120,000
				0
60,000	60,000	60,000	60,000	240,000
				0
				0
				0
				0
				0
				0
				0
0	0	0	0	0
404,325	1,077,275	1,077,275	1,077,275	3,636,150
699,225	1,776,500	2,853,775	3,931,050	3,931,050
717,067	1,350,742	1,248,667	935,092	935,092